



WRIT OF POSSESSION INFORMATION

To evict a tenant from a residence, there are certain steps that **MUST** be followed to legally remove them.

The first step is to give them an eviction notice. This notice can be obtained from the Residential Tenancy Office (RTO).

If the eviction notice is ignored and the tenant doesn't move, you have to apply to the RTO for an Order of Possession. An arbitration hearing will be arranged at which time the arbitrator will decide whether or not your tenant has to move. Once the hearing date is set, you have to serve the tenant with the documents received from the RTO. Service can be done by serving the tenant personally, sending the notice by registered mail or by posting it on the door of the residence. The hearing is held by conference call involving an arbitrator, the tenant and the landlord.

If you are granted an Order of Possession, you will have to serve the tenant with these documents as well. The Order tells the tenant that they have to move and gives a date that they have to be out of the unit.

If the tenant does not move by the date specified, you can apply for a Writ of Possession from the Supreme Court. **PLEASE NOTE:** the Court does not recognize that the Order of Possession documents have been served until at least the third day, depending on how the documents were served. Even though the Order of Possession might state that the tenant has to move within 24 hours, you can not apply to the Court until at least three days after the Order has been personally served on the tenant. Sundays and holidays are not considered a service day, so the weekend is only considered as one day.

Whoever serves the tenant with the Order of Possession will have to swear an Affidavit stating that the tenant was served. If the person filing for the Writ is not the person that served the tenant, ensure you have a sworn Affidavit to bring to the Court. If the person filing is the same person that served the tenant, you can swear your Affidavit at the Court when you are filing for the Writ of Possession. Bring the original Order of Possession that was received from the RTO. Without the Order or Affidavit, a Writ of Possession will not be granted. The cost to file a Writ of Possession is \$80.00 and swearing the Affidavit at Court is \$40.00. In order to get your Writ of Possession, you will have to advise the Court which Court Bailiff you have chosen to enforce the Writ of Possession as the Court will only release the original documents to the Court Bailiff.

If you prefer, and to possibly keep costs down, we can send out our Court Bailiffs prior to enforcement to inform the tenant(s) that a Supreme Court Order has been issued. This process will minimize costs if the tenant(s) move on their own. However, if the tenant(s) do not move, further costs may be incurred as the Court Bailiffs will have to re-attend. There is also a possibility that the tenants may cause further damage to the unit if they have notice that the Bailiffs are coming to remove them.

The landlord or agent will need to provide a deposit in advance. Our staff will advise you of the amount required, which is based upon the number of bedrooms and location of the rental unit. **The deposit must be in the form of cash, bank draft or money order and will be deposited in Trust to be applied to enforcement costs.** Credit cards are accepted as form of payment provided the landlord signs our authorization form. A 2.9% fee will be charged for all Visa and Mastercard transactions.

****Please note: Enforcement costs may be greater or less than the deposit requested.****

The attached Tenant Information form must be completed prior to enforcement so that our Court Bailiffs are aware of the particulars of the situation. If the landlord or agent is providing keys/access, arrangements must be made to deliver the key to the Court Bailiffs either in advance or at the time of enforcement. If an elevator is required, the landlord/agent must ensure that it is booked for the enforcement. All paperwork can be returned to us via email or fax.

If the tenant(s) is not at home at the time of the eviction or if the tenant(s) is/are unable or unwilling to remove the goods, we are obligated to place their goods into storage. Storage costs appear on the mover's bill and the landlord is responsible for 30 days of storage. If after that time, the tenant(s) does/do not claim their possessions, they are disposed of. If the tenant(s) is/are home at the time of the eviction and they are able and willing to remove their possessions, they will be removed from the premises and put outside on the property line (not on public property) and the tenant(s) is/are then responsible for removing their goods. Please note that there may be restrictions on where tenant goods may be placed if the unit is a strata unit. Please check with your strata to find out where tenant goods may be placed in the event that the tenant is at home at the time of enforcement. In the alternative, the tenant(s) goods may be taken to storage to avoid any conflicts with strata bylaws.

****** Goods are only put in storage if they are in good condition. If there is no value to the goods, or if they are unsanitary (infested), the storage company will not take them. If this is the case, the goods will be left outside for the tenant to remove them. ******

Landlords should keep in mind that an eviction is not a normal move. If the tenants have not packed any of their household goods, this must be done by the movers and can be time consuming. Everything in the residence must go except garbage. This includes bedding, clothing, dishes, towels, pictures, food, etc.

****** Please note that this information is general and your situation may be slightly different. Any determination will be made by the Court Bailiffs at the time of enforcement ******

Court Bailiff fees are set by the Court. The hourly fees for Court Bailiffs are \$70.00 per hour and \$150.00 statutory fee. To ensure safety and follow policy, two Court Bailiffs will attend each enforcement. Mileage is charged @ \$.50 per kilometre for Court Bailiff travel time. All Court Bailiff Fees are set by the Ministry of Justice.

The majority of the cost of enforcement is due to the mover's fees. A schedule of mover's fees is attached for your information. Please note that any materials used by the movers such as; boxes, shrink-wrap, packing paper and tape are additional charges that are included in the moving bill. Additional costs may be incurred if a lock smith is required.

The Court Bailiff is authorized to seize sufficient tenant goods in order to recover the cost of enforcement. This is done by seizing property of the tenant at the time of enforcement and selling the property at a later date, however, seizures rarely occur and only take place when the goods are of high value. The Law provides each tenant with a \$4,000 personal household exemption for household goods, a \$5,000 exemption for a vehicle and a \$10,000.00 exemption for "tools of trade". **It is highly unusual to find anything of sufficient value in the tenant's possessions to justify the costs of seizing the property. Please do not rely on seizure to recover the cost of enforcement.**

The following is a list of the types of costs that can be incurred during an eviction.

- Statutory fee (Supreme Court Fee Schedule)
- Court Bailiff (Supreme Court Fee Schedule)
- Mileage (Supreme Court Fee Schedule)
- Movers
- Locksmith
- Storage
- Towing
- And any other disbursements required in the enforcement.

Unless we can combine enforcement with other files in which case time will be apportioned accordingly, Movers and the Court Bailiffs begin charging the hourly rate starting from when they leave the office and return back to the office.

If an enforcement is cancelled at the landlord's/agent's request after the file has been opened and/or scheduled, all costs incurred to date will be billed accordingly.

If you have any questions please call our office between 9:00 am and 4:30 pm Monday to Friday at 604-526-2253.

Accurate Court Bailiff Services Ltd.
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